UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,717	11/06/2000	Robert J Briscoe	36-1382	3564

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EXAMINER
JONES, PRENELL P

ART UNIT	PAPER NUMBER
2667	

DATE MAILED: 02/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _01 May 2001_.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-35_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _18-22,29,34 and 35_ is/are allowed.

6)☐ Claim(s) _1-17,23-26 and 30-33_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _4_.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Easki et al.

Regarding claims 1 and 3, Easki discloses (Abstract, Figs. 5, 7, 13, col. 5, line 61 thru col. 9,

line 29, col. 33 thru 38) data transfer routing and management for a packet communication

system that includes ATM networks wherein there exist multiple internetworking units (IWU),

packets include IP addresses, statistical information is used to charge fees (tariffs) to each

cell/subscriber (multiple customer terminals), usage charge of subscriber is recorded and

multicasting data.

3.   Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Benoit et al.

Regarding claim 17, Benoit et al discloses (Abstract, pg. 1, line 1 thru page 6, line 25, pg. 7, line

26 thru pg. 14, line 29, pg. 27, line 8 thru page 28, line 14) a management system for controlling

transmission wherein (Fig. 1, 4) a single control unit at each of a plurality of customer sites, and

a single transmission line interconnecting sites to an end office and a stand-by unit for detecting

errors, customers billed on usage, control unit used in conjunction with ATM, data passed thru

suitable error detection/correction circuits and shift registers for testing for errors.

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a
> whole would have been obvious at the time the invention was made to a person having
> ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

2.   This application currently names joint inventors. In considering patentability of the

claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c)

and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3.   Claims 4, 5, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Easki et al in view of Wulkan et al.

Regarding claims 4 and 5, Easki discloses (Abstract, Figs. 5, 7, 13, col. 5, line 61 thru col. 9,

line 29, col. 33 thru 38) data transfer routing and management for a packet communication

system that includes ATM networks wherein there exist multiple internetworking units (IWU),

packets include IP addresses, statistical information is used to charge fees (tariffs) to each

cell/subscriber (multiple customer terminals), usage charge of subscriber is recorded and

multicasting data. Easki is silent on revising/updating tariff. In analogous art, Wulkan discloses

(Abstract, Figs. 3, 5-11) a telecommunication call management system wherein the architecture includes (pg. 5, line 15-30) carrier selection database, utilizes Internet, (pg. 7, line 18-30, pg. 11, line 13-28, pg. 22, line 12 thru pg. 23, line 30, pg. 25, line 26 thru pg. 29, line 32) includes an updating mechanism, updating tariff information/databases (revising tariff), a plurality of subscribers (terminals), (pg. 7, line 12 thru pg. 8, line 21) updating a plurality a data servers which holds a geographically based tariff data of service providers, tariff server includes performance data, billing parameters, cost router, calculate cost (tariff), and the data server distributes tariff data computers, tariff data server provided for monitoring/updating changes in telephone service provider tariffs and downloading a database of tariff data to computers. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to be motivated to implement revising tariffs and distributing the revises tariffs to customer terminals as taught by Wulkan with the teachings of Easki for the purpose of further managing services provided to customers with respect to usage charging associated with communicating information whether it be voice, packet or other forms of data.

Regarding claims 8 and 9, as indicated above, Easki discloses (Abstract, Figs. 5, 7, 13, col. 5, line 61 thru col. 9, line 29, col. 33 thru 38) data transfer routing and management for a packet communication system that includes ATM networks wherein there exist multiple internetworking units (IWU), packets include IP addresses, statistical information is used to charge fees (tariffs) to each cell/subscriber (multiple customer terminals), usage charge of subscriber is recorded and multicasting data. Easki is silent on revising/updating tariff. Easki further discloses data travel via determined routes, which include selected links (predetermined channels) and tariff charge based on a variety traffic flow parameter such as bandwidth.

4.   Claims 2, 6, 7, 10, 13-16, 23-26 and 33 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Easki et al in view of Wulkan et al as applied to claims 1, 3-5, 8, 9 above, and

further in view of Saari et al.

Regarding claims 2, 6, 7, 10, 13-16, 23-26 and 33, as indicated above, Easki discloses

(Abstract, Figs. 5, 7, 13, col. 5, line 61 thru col. 9, line 29, col. 33 thru 38) data transfer routing

and management for a packet communication system that includes ATM networks wherein

there exist multiple internetworking units (IWU), packets include IP addresses, statistical

information is used to charge fees (tariffs) to each cell/subscriber (multiple customer terminals),

usage charge of subscriber is recorded and multicasting data, Wulkan discloses (Abstract, Figs.

3, 5-11) a telecommunication call management system wherein the architecture includes (pg. 5,

line 15-30) carrier selection database, meter for measuring usage charges, utilizes Internet, (pg.

7, line 18-30, pg. 11, line 13-28, pg. 22, line 12 thru pg. 23, line 30, pg. 25, line 26 thru pg. 29,

line 32) includes an updating mechanism, updating tariff information/databases (revising tariff),

a plurality of subscribers (terminals), (pg. 7, line 12 thru pg. 8, line 21) updating a plurality a data

servers which holds a geographically based tariff data of service providers, tariff server includes

performance data, billing parameters, cost router, calculate cost (tariff), and the data server

distributes tariff data computers, tariff data server provided for monitoring/updating changes in

telephone service provider tariffs and downloading a database of tariff data to computers. Both

Easki and Wulkan are silent in communicating a formula for calculating charge usage along with

a separate formula for coefficients used calculating coefficients used in charge usage formula.

In analogous art, Sarri discloses (Abstract, Figs. 1-3, 6-12, 14, col. 4, line 4 thru col. 8, line 28)

determining charges for usage of a network connection whereby the architecture includes ATM

network environment, fixed tariff/billing charge, communicating packet data, multiple nodes,

billing unit used for computing connection usage charge, fixed rate/variable rate billing schemes,

possible factors used as variables associated with usage charge formula include service type,

QoS, ATM parameters, connection time, other traffic flow parameters, (col. 14, line 5 thru col.

26, line 21) usage charge formula consist of various coefficients and formulas for computing the

various variables/coefficients, (fig. 6, col. 11, line 56 thru col. 12, line 7, col. 17, line 60 thru col.

18, line 51, col. 21, line 42 thru col. 24, line 67) detecting load levels/load status, furthermore

Saari suggest that the Internet can also be implemented. Therefore, it would have been

obvious to one of ordinary skill in the art at the time of the invention to implement

separate/multiple formulae for calculating network service charges and its associated multiple

variables/coefficients/factors for the purpose of further managing network services along with

analyzing network usage in a communication system.

5.   Claims 11, 12, 30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Easki et al in view of Wulkan et al as applied to claims 1, 3-5, 8, 9 above, and further in

view of Okamoto.

Regarding claims 11, 12, 30 and 32, as indicated above, Easki discloses (Abstract, Figs. 5, 7,

13, col. 5, line 61 thru col. 9, line 29, col. 33 thru 38) data transfer routing and management for a

packet communication system that includes ATM networks wherein there exist multiple

internetworking units (IWU), packets include IP addresses, statistical information is used to

charge fees (tariffs) to each cell/subscriber (multiple customer terminals), usage charge of

subscriber is recorded and multicasting data, Wulkan discloses (Abstract, Figs. 3, 5-11) a

telecommunication call management system wherein the architecture includes (pg. 5, line 15-

30) carrier selection database, utilizes Internet, (pg. 7, line 18-30, pg. 11, line 13-28, pg. 22, line

12 thru pg. 23, line 30, pg. 25, line 26 thru pg. 29, line 32) includes an updating mechanism,

updating tariff information/databases (revising tariff), a plurality of subscribers (terminals), (pg. 7,

line 12 thru pg. 8, line 21) updating a plurality a data servers which holds a geographically

based tariff data of service providers, tariff server includes performance data, billing parameters,

cost router, calculate cost (tariff), and the data server distributes tariff data computers, tariff data

server provided for monitoring/updating changes in telephone service provider tariffs and

downloading a database of tariff data to computers. Both Easki and Wulkan are silent on

encrypting/decrypting usage charges. In analogous art, Okamoto discloses (Abstract, 1-16b,

col. 7, line 3 thru col. 9, line 58, col. 11, line 12 thru col. 12, line 39) calculating billing charges

associated with usage of network services, multiple subscribers, communicating packet data,

encryption/decryption unit, encrypt charge into a check code. Therefore, it would have been

obvious to one of ordinary skill in the art at the time of the invention to be motivated to

implement billing charges as taught by Okamoto with the combined teachings of Easki and

Wulkan for the purpose of maintaining some kind of security associated with customer

billing/usage charge with respect to services provided.

Claim Rejections - 35 USC § 112

6.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and
> distinctly claiming the subject matter which the applicant regards as his invention.

7.   Claim 31 recites the limitation "said step of measuring together with the said tariff" in

lines 10 and 11. There is insufficient antecedent basis for this limitation in the claim.

Allowable Subject Matter

8.   Claims 18-22, 29, 34, 35 are allowed over prior art.

9.   The following is a statement of reasons for the indication of allowable subject matter:

Although the cited art, Easki et al, Wulkan et al, Saari et al, Okamoto disclose data transfer

routing and management for a packet communication system that includes ATM networks

wherein there exist multiple internetworking units (IWU), packets include IP addresses,

statistical information is used to charge fees (tariffs) to each cell/subscriber (multiple customer

terminals), usage charge of subscriber is recorded and multicasting data, a telecommunication

call management system wherein the architecture includes carrier selection database, utilizes

Internet, includes an updating mechanism, updating tariff information/databases (revising tariff),

a plurality of subscribers, updating a plurality a data servers which holds a geographically based

tariff data of service providers, tariff server includes performance data, billing parameters, cost

router, calculate cost (tariff), and the data server distributes tariff data computers, tariff data

server provided for monitoring/updating changes in telephone service provider tariffs and

downloading a database of tariff data to computers, fixed rate/variable rate billing schemes,

possible factors used as variables associated with usage charge formula include service type,

QoS, ATM parameters, connection time, other traffic flow parameter usage charge formula

consist of various coefficients and formulas for computing the various variables/coefficients,

detecting load levels/load status, communicating packet data, encryption/decryption unit,

encrypt charge into a check code the fail to teach/suggest sampling part of the traffic

communicated between users and the network, and for sampled traffic comparing any

payments made by users, comparing sampled traffic with traffic contracted for by the user,

amending the user status when a discrepancy between the sampled parameters and the

contracted parameters are detected.

Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Prenell P Jones whose telephone number is 703-305-0630. The examiner

can normally be reached on 9:00-5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Chi Pham can be reached on 703-305-4378. The fax phone numbers for the

organization where this application or proceeding is assigned are 703-872-9314 for regular

communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is 703-305-3900.

Prenell Jones

February 15, 2004

CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600 2/17/04